

to the perception of the United States conducting a military exercise with innocent civilians being killed on world wide television with ominous repercussions throughout the Muslim world . . . including the trouble spots of Bosnia and in Indonesia.

Our policy has also made Israel more than a little nervous. Israeli leaders have stated they reserve the right for self protection and will act in accordance with their defense interests. Once again, we are trying to convince Israel to forgo its right to self defense and retaliation. A retaliatory attack upon Israel in response to U.S. bombing may be unlikely but it cannot be ruled out. Such a missile exchange would have devastating consequences.

Fifth, as a result of Arab denial to use our bases in their countries, the United States must now launch any attack from aircraft located in neighboring gulf states, from aircraft carriers and from an Indian ocean island. The USS *Independence* was supposed to be decommissioned this coming September but now, the oldest ship in the fleet, is in the Gulf.

This renewed buildup of sea and air forces in the Gulf and the corresponding manpower and equipment gaps in Europe and the Pacific is another example of just how stressed and stretched our U.S. military has become, all in the wake of substantial troop cuts and rising commitments to various peacemaking and nation-building missions such as Bosnia. We are already experiencing serious problems in regard to readiness, modernization, procurement and military quality of life.

If we sustain a three carrier force in the Gulf, it will mean zero presence somewhere else. Yet, Navy command has mapped out plans for two carrier presence through 1999. Our Air Force is not structured as a mobile expeditionary force. Accustomed to operating out of large bases, the new operations and personnel tempo has caused serious retention problems.

The obvious budget, military readiness, national security and foreign policy repercussions will be far reaching. Without question we cannot fund this current buildup and prospective military strike from within the current defense budget. If this is, in fact, an emergency requiring a military strike, then it should be funded by an emergency supplemental bill.

I must ask, has enough consideration been given to the collective risks that could well outweigh whatever benefit a limited military strike might bring?

Can we really ascertain the extent of Saddam's air and missile defense?

Can we, with any degree of certainty effectively target and destroy his most deadly weapons and eliminate the threat?

Do we have adequate protection for the men and women who will conduct the operation? Personnel recovery? POW recovery?

Can this strike destroy most of Saddam's deployment and delivery capability?

Will this action end all chances of further inspection? If this is true, what happens next when his capability is restored?

Will this strike hurt or improve his support within and without his country?

Will the strike prevent Saddam from counter-attacking and using weapons of mass destruction?

Will Iran attack a weakened Iraq?

What will be the response of the Muslim nations throughout the world?

How will the attack change Saddam's conduct?

Are our forces adequately equipped and protected against biological and chemical agents?

Have we considered the possibility of terrorist activities both in the Mideast and in the United States?

There is almost no end to these kind of questions and there is no question that the President's national security team and Pentagon planners have studied all of these questions and more with great care and purpose.

I can say as a member of the Armed Services and Intelligence Committees, I have great faith and a sense of personal pride and trust in our military and in our intelligence community. But, I also know that too often in the past military action has been rooted in misguided policy and our military has suffered the consequences.

The Chairman of the Joint Chiefs of Staff, General Shelton, has already found it necessary to refute allegations that the battle plan and targets in Iran have been drafted and selected by the executive as opposed to warfighters, a charge that harkens back to the limited and political decision making in the Vietnam war. There is no question that our military will obey their Commander in Chief and will do an exemplary job, no matter what the mission. That is how it should be and is. Nevertheless, I would be less than candid if I did not say judging from the private commentary from many within the military and public questions from those with expertise in military tactics and national security that this proposed strike may well be flawed and counterproductive.

Administration spokesmen have stated that this strike will attempt to destroy as much of Saddam Hussein's capability to deploy and deliver chemical and biological weapons as possible; not the actual material mind you, but the delivery means. But, we will not be able to destroy all of that delivery means.

So, at the end of the attack, at the end of the day, when all is said and done, with civilian and military casualties, Saddam will still be in power, his scientists will still be at work, his military and the Republican Guard still deployed, some of his weapons of mass destruction and their delivery means will still be intact. It strains

credibility that there will be any chance of inspections. In a year or two we may have to do it all over again.

In the meantime, we will have a continued erosion of faith and confidence with our allies, anti-American sentiment throughout the Muslim world, and the horrors of war on international television courtesy of Saddam Hussein. If our bombing does not kill innocent civilians, then Saddam will.

This is not some kind of impersonal therapy to correct Saddam's behavior we are contemplating. Too often we refuse to recognize the reality and horrors of war. In this regard, there is a pretty good test. Imagine what you would say to the loved one of an American service man or woman who will be put in harms way and may not return. For what did that airman, soldier, sailor or Marine die? Justify that loss. Many times in our history we have been able to do so with the knowledge and comfort in knowing that our nation and our individual freedoms were protected. Tragically, there have been other times we have not. We could not in Vietnam. We could not in Beirut. We could not in Somalia. Unleashing the horrors of war can be justified only to protect our vital national interests and to get rid of a greater evil. I am concerned the proposed military strike may not do either.

Mr. President, before we consider S. Con. Res. 71, these concerns should be answered and other policy alternatives should be considered.

I yield the floor.

#### RECESS

The PRESIDING OFFICER. Under the previous order, the Senate will stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:48 p.m., recessed until 2:14 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. COATS).

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Kansas.

Mr. BROWNBACK. I ask unanimous consent I be allowed to speak as in morning business for up to 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Kansas is recognized.

Mr. BROWNBACK. I thank the Chair. (The remarks of Mr. BROWNBACK pertaining to the submission of S. Con. Res. 73 are located in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

# ATTEMPT ON THE LIFE OF PRESIDENT EDUARD SHEVARDNADZE OF GEORGIA

Mr. BROWNBACK. Mr. President, I serve on the Foreign Affairs Committee and I note, last night an attempt was made on the life of President Eduard Shevardnadze of The Republic of Georgia by assailants who have yet to be identified. President Shevardnadze survived the attack without injury. Unfortunately several members of his personal security detail were killed, and number of others were wounded.

The Republic of Georgia is one of the key linchpins of the new Eurasia. It is the most democratic of all of the states that succeeded the Soviet Union. Under President Shevardnadze's inspired leadership a civil war has been put to rest, criminals have been jailed, private armies have been disarmed, and economic decline has been reversed. In 1997, Georgia's economy grew by nearly 8 percent, inflation was held in check and the Georgian currency remained rock solid. Democracy has flourished. Indeed, if democracy is allowed to fail in Georgia, it is unlikely to succeed anywhere in the region.

Any attempt to kill Shevardnadze must be seen in those context. It is an attempt to derail a successful democratic process, and an effort to compromise the growing number of U.S. economic and strategic interests in Georgia and the region.

According to Georgian authorities, the attempted assassination was well-planned and well-executed by as many as 30 well-trained assailants. They were armed with rocket propelled grenades and automatic weapons. The Georgians are asking, as we must ask: How could a group this size operate undetected in the capital of Georgia? Where did they receive arms and ammunition? Who trained them? Where did they disappear to in the aftermath? And most importantly: Whose interests do they represent?

Georgian authorities make it clear that they suspect outside powers of this attempt on the life of their president. They are not alone. Azerbaijan's president Aliyev was also the object of an assassination attempt in recent days, which Azerbaijani authorities believe was planned and executed by outsiders. We should be mindful that these two cowardly acts may be part of a plan to destabilize the Caucasus with the intention of scaring off American and other investors who seek to bring the Caspian's great energy wealth west to international markets.

Who benefits from promoting instability in the Southern Caucasus at this time? Russia is everyone's leading candidate as the outside power with the most to gain. Russia has long raged and conspired to thwart Caspian energy from flowing any direction but north through Russia. Most parts of Russia's political elite still view Caspian wealth as their own. The suspected perpetrator of an earlier assass-

ination attempt on Shevardnadze remains under Russian care despite vociferous demands from Georgia that he be extradited. Russia still has bases in Georgia from which yesterday's attack could be planned and staged. None of this is proof of Russian complicity, but the strong suspicion of Russian involvement will not go away quickly.

The U.S. Government should make every effort to learn the truth. More than this, we must articulate in clear and forceful terms to those outside powers who might be tempted to destabilize the Caucasus some simple truths:

First, the United States has vital interests in the Caucasus which these attacks threaten.

Second, our support for President Shevardnadze and the other Caucasian leaders is unbending.

Third, we will do everything we can to facilitate democracy and free markets in the region.

Fourth, oil and gas will flow west.

And finally, we must make it painfully evident that outside states that seek to destabilize America's friends in the Caucasus are not states we will favor with political and economic aid and other forms of assistance.

The attempt to kill President Shevardnadze, one of America's most valued friends, is intolerable and will have consequences.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

## JUDICIAL VACANCIES

Mr. GRASSLEY. Mr. President, lately, there has been a lot of talk about Chief Justice Rehnquist's "Year End Report on the Federal Judiciary." As chairman of the Subcommittee on Administrative Oversight and the Courts, I have an added interest in what the Chief Justice has to say. According to some, the Chief Justice's report indicates that the federal judiciary suffers from a partisan produced "vacancy crisis." Indeed, some critics have gone so far as to feverishly conclude that the Senate's Constitutionally mandated confirmation process has become an "obstruction of justice." Caught up in this frenzy, some Democrats have come to the Senate Floor blaming many, if not all, of the judiciary's problems on vacancies. Vacancies, however, are not the source of the problem.

Despite assertions to the contrary, the Chief Justice could not have been more clear on this point: Vacancies are the consequence of what he perceives to be an overburdened judiciary. In fact, the Chief Justice pointed out that it is the judiciary's increased size and expanded jurisdiction that is the major threat to justice in the United States. In his Report, Chief Justice Rehnquist warned that the federal judiciary had

become "so large" that it was losing "its traditional character as a distinctive judicial forum of limited jurisdiction."

Mr. President, in addition to what the Chief Justice said about the size of the judiciary has become "so large" that it was losing "its traditional character as a distinctive judicial forum of limited jurisdiction," I ask unanimous consent to have printed in the RECORD an article by Chief Judge Harvie Wilkinson III of our Circuit Court of Appeals entitled "We Don't Need More Federal Judges."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Feb. 9, 1998]

WE DON'T NEED MORE FEDERAL JUDGES

(By J. Harvie Wilkinson III)

The tune is so familiar that most federal court watchers can whistle it in their sleep. Add more and more judges to the federal bench, goes the refrain, and all will be well.

Well, Congress has been adding judges for years now, and somehow each new addition never seems to be enough. The trend has been dramatic. At midcentury, the number of authorized federal judgeships stood at approximately 280. Today, the number of authorized judgeships is 846. And the process shows no signs of abating. The Judicial Conference of the U.S. has asked Congress for 17 additional judgeships for the 13 circuits on the U.S. Court of Appeals—12 permanent judgeships and five "temporaries." Under the conference's proposal, the Ninth Circuit alone would increase to 37 judgeships from the already unwieldy 28.

The federal judiciary is caught in a spiral of expansion that must stop. With growth in judgeships comes growth in federal jurisdiction. And with the expansion of federal jurisdiction comes the need for additional federal judges to keep pace. Whether the growth in judges precedes the growth in jurisdiction or vice versa is anybody's guess. The one follows the other as the night follows the day.

The process of growth has not been a carefully examined one. Rather, it is fueled by a mechanical formula that presupposes that every increase in case filings must be met not with judicial efficiencies or jurisdictional restrictions but with additional battalions of judges. The Judicial Conference has come up with a benchmark of 500 filings per three-judge panel for requesting an additional judgeship on the appellate courts.

Nobody knows precisely what is the basis for the 500 figure except that it is a nice round number; not so long ago the magic unit was 255. While the figure is intended to be used in conjunction with other assessments, it remains the major factor and the one on which a request for additional judgeships is presumptively justified.

To be sure, there are some hard-pressed courts where the workload makes it imperative that new judges come on board. But adding judges to the federal courts is no long-range answer. In fact, the consequences of this silent revolution in the size of the judiciary could not be more serious.

Growth in the federal judiciary has three main costs. The first is that of simple inefficiency. Large circuit courts of appeals present problems that small ones don't have. There are more internal conflicts in circuit law. These must be resolved by more en banc hearings of the full court. If the en banc court consists, for example, of 20 judges as opposed to 12 it takes twice the time even to get the decision out. Judges on a large court